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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,148	01/03/2007	Dietrich Klingler	1006/0124PUS1	8901
60601	7590	01/20/2010		
Muncy, Geissler, Olds & Lowe, PLLC P.O. BOX 1364 FAIRFAX, VA 22038-1364			EXAMINER KOSANOVIC, HELENA	
			ART UNIT	PAPER NUMBER
			3749	
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			01/20/2010	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/567,148	<b>Applicant(s)</b> KLINGLER ET AL.	
	<b>Examiner</b> HELENA KOSANOVIC	<b>Art Unit</b> 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 February 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/7/09</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

Applicant's amendments filed 10/5/2009 are acknowledged.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a) because they fail to show "control device", claim 16, as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1, 9, 14 and 21-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Nocera FR 2799695.

Nocera teaches the invention as claimed:

Regarding claim 1, an air vent (fig. 3), especially for a motor vehicle, with an air-supplying air duct 9 (fig. 3) and with an air conduction device (9B), the air duct in the air conduction device being divided into at least two essentially cylindrical sub ducts (2A **(11A)** and 2B **(11B)**, fig. 3), that wherein the cylindrical sub ducts are arranged parallel with respect to one another (fig. 3).

Regarding claim 9 a device (1B, 1A, fig. 6) for setting the direction of the air stream is arranged after the air conduction device (fig. 4).

Regarding claim 14, the air vent has a lamellar air conduction device (1A and 1B, fig. 5).

Regarding claim 21, A ventilation system for a motor vehicle (fig. 3), characterized by an air vent (fig. 4).

Regarding claim 22, an air vent (fig. 3) with an air conduction device 9, 9A, 9B, 11A, 11B (fig. 3 and fig. 4) and an air-supplying air duct 9A, 9B (fig. 3) in the air

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conduction device, the air duct being divided into at least two essentially cylindrical subducts e11A, 11B (fig. 3) each having a centerline (not shown center line, but should be in the place of line IV-IV on both duct 11a and 11b, fig. 3), the centerlines of the at least two essentially cylindrical subducts being mutually parallel (fig. 3).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 2 is rejected under 35 U.S.C. 103(a) as being obvious over Nocera FR 2799695 in view of Butera WO02/072371.

Nocera teaches the invention as discussed above but is silent about the four air streams.

Butera teaches:

Regarding claim 2, a division (5S and 5D, fig. 2) of the air supplied through the air duct into at least four air streams (7S, 7D, 7C, fig. 2).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have the Nocera invention modified with the Butera 4 air streams in order to have more vent openings and thus improve ventilation in the vehicle cabin.

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3. Claims 3-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nocera FR 2799695 in view of Burr DE 10243974 (see also 2006/0135054 which is English translation).

Nocera teaches further:

Regarding claim 19-20, oscillation frequency (controls of the air that is supply to the vehicle cabin) is regulated as a function of one or more regulating parameters (air temperature and speed, see Abstract, lines 1-4)

Nocera teaches the invention as discussed above, but is silent about cylindrical sub ducts arranged concentrically one in the other, about spiral sub duct, and about oscillating flaps.

Burr teaches:

Regarding claim 3, at least one further subduct 12 (figs. 3-4) is provided, arranged around at least one of the cylindrical subducts 11 (figs. 3-4)-

Regarding claim 4, the air conduction device has subducts (11, 12, figs. 3-4) arranged concentrically one in the other.

Regarding claim 5, the air condition device has at least one helical or longitudinally indrawn spiral sub duct (12, figs. 3-4)

Regarding claim 6, the helical sub duct has at least one guide (unnumbered spiral wall of duct 12, fig. 3) which is arranged helically.

Regarding claim 7, the pitch of the helix decreases toward the outlet port (fig. 3).

Regarding claim 8, upstream of the air conduction device (-4-), a metering device is arranged, which is designed in such a way that the air capable of being supplied to the individual sub ducts is controllable (is capable of being controlled)

Regarding claim 10 limitation about specific aspect ratio, at the time the invention was made it would have been obvious matter of design choice to a person of ordinary skill in the art to have specific aspect ratio, because applicant has not disclosed that the claimed specific aspect ratio provides an advantage is used for particular purpose or solves a stated problem. One of ordinary skill in the art would have expected the Applicant's invention to perform equally well with claimed aspect ratio or with aspect ratio similar to claimed aspect ratio, because both aspects ratio performs the function of transferring the air equally well.

Regarding claim 11, each cylindrical sub duct (11, fig. 3) has arranged around it at helical sub ducts (12, fig. 3) which can be regulated independently of one another via separate control devices 21 (fig. 2).

Regarding claim 12, helical subduct (12, fig. 3) are arranged around cylindrical subduct (11, fig. 3) in the inflow region the air duct assigned to the cylindrical sub ducts being arranged between the air ducts assigned to the helical subducts (12, fig. 3)

Regarding claim 13, the cylindrical subducts project beyond the helical subducts as seen in the air flow direction (fig. 3).

Regarding claim 15, The air vent as claimed in claim 14, wherein the lamellar air conduction device is of centrally divided design, and the two parts can be regulated independently of one another (fig. 2).

Regarding claims 16, a first flap 21 of at least one first duct 12 (fig. 2) and a second flap device (unnumbered flap opposite the flap 21, fig. 2) of at least one second duct 10 (fig. 2) are alternatively opened or closed by means of control device 23 (fig. 2).

Regarding claim 17, alternative opening and closing take place in oscillating manner (examiner notes dictionary defines **oscillate**: **1 a** : to swing backward and forward like a pendulum **b** : to move or travel back and forth between two points (<http://www.merriam-webster.com/dictionary/oscillate>, accessed 1/16/10), in this case flaps oscillates between two points: open and closed position.)

Regarding claim 18 limitation about specific range, at the time the invention was made it would have been obvious matter of design choice to a person of ordinary skill in the art to have specific range, because applicant has not disclosed that the claimed specific range provides an advantage is used for particular purpose or solves a stated problem. One of ordinary skill in the art would have expected the Applicant's invention to perform equally well with claimed range or with range similar to claimed range, because both aspects ratio performs the function of transferring the air equally well.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have the Nocera invention modified with the Burr teaching of cylindrical sub ducts arranged concentrically and spiral in one other, about spiral sub duct, with oscillating flaps in order to get a diffuse setting and thus prevent the emerging airstream from blowing onto a vehicle occupant at a high velocity (see Burr English translation paragraphs 0002-0005)



### ***Response to Arguments***

Applicant's arguments filed 10/5/09 have been fully considered but they are not persuasive.

In response to the Applicant argument that Nocera ducts 9A and 9B are not parallel the examiner disagrees, because as seen on figure 3 and 4 duct 9A and 9B are parallel as long as their central axis are parallel, which is indicated on figures 3-4.

Regarding claim 2 argument, the examiner notes that it is clear from the Butera, that two ducts 5S and 5C and 6s 6c, as extension (which are similar to the Nocera ducts 9A and 9B). At the end of said duct of the Butera there are ducts 7c, 7D, 7C that presents division of said two ducts into at least 4 airstreams through said openings 7C, 7D and 7S.

Regarding claims 16-20 it was obviously the typographical error, because said claims were included into the body of the rejection (see page 5 of previous Office Action). However, since the Applicant has not understood the rejection and explanation that had been provided, the examiner, this time, wrote the rejection with more details in order to make her position clear, and for that reason this Office Action is non-final, even though the examiner did not apply new prior art.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HELENA KOSANOVIC whose telephone number is (571)272-9059. The examiner can normally be reached on 8:30-5:00, Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve McAllister can be reached on 571-272-6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Helena Kosanovic/

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Examiner, Art Unit 3749  
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/Steven B. McAllister/  
Supervisory Patent Examiner, Art Unit 3749